

tion is not *bona fide*, or the guardian making the application is grossly immoral; and if the guardian by nurture deliver the infant to another for instruction, he may afterwards retake it. Therefore in *R. v. Clarke*, 7 E. & B. 186, where no more appeared than that the father had been a Protestant and the mother was a Roman Catholic, and intended to educate the child in her own persuasion, the Court ordered the child to be delivered to the mother.

**Guardian's right to *habeas corpus* for ward.**—If the child be detained from the legal guardian, he may sue out a writ of *habeas corpus* to have his ward brought into Court and delivered to him.<sup>30</sup> The father, it would appear, is entitled to this remedy against the mother, though the infant be at her breast, if the Court see no ground to impute to the father any motive injurious to the health or liberty of the child, *R. v. De Manneville*, 5 East, 221, (see 10 Ves. Jun. 59); *R. v. Greenhill supra*; although Chancellor Bland said in *Helms v. Franciscus*, 2 Bl. 563, that "even a Court of Common Law would not go so far as to hold nature in contempt, and snatch helpless, puling infancy from the bosom of an affectionate mother, and place it in the coarse hands of the father; the mother is the softest and safest nurse of infancy, and with her it will be left in opposition to this general right of the father;" however, for this he relies only on a South Carolina case. But the mother of an illegitimate child within the age of nurture may claim it on *habeas corpus* against the reputed father, *R. v. Hokin*s, 7 East, 579; see 1 N. R. 148.

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<sup>30</sup> *In re Andrews*, L. R. 8 Q. B. 153. See also note 3 *supra*.

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## STATUTES

Made at WESTMINSTER, Anno decimo sexto CAROLI secundi  
Regis and A. D. 1664.

### CAP. VII.

#### **An Act against deceitful, disorderly, and excessive Gaming.**

Whereas all lawful Games and Exercises should not be otherwise used, than as innocent and moderate Recreations, and not as constant Trades or Callings to gain a Living, or make unlawful Advantage thereby; (2) and whereas by the immoderate Use of them, many Mischiefs and Inconveniencies do arise, and are daily found, to the maintaining and encour-

(42)